

GJ#2

AHMIMMH: JUNE 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ALABAMA WESTERN DIVISION

UNITED STATES OF
AMERICA

vs.

PIDLLIP KELLEY BOBO,
DON EVGENE SIEGELMAN, and
PAUL MICHAEL HAMRICK,
Defendants.

)
) Case no.
)
) Violations:
) 18 V.S.C. § 371, Conspiracy;
) 18 V.S.C. § 1347, Health Care Fraud;
) 18 V.S.C. § 666, Theft From Federally
) Funded Programs;
) 18 V.S.C. § 2, Aiding and Abetting;
) 18 V.S.C. § 1343, Wire Fraud;
) 18 V.S.C. § 1512, Witness Tampering;
) 18 V.S.C. § 1001, False Statements;
) 18 V.S.C. § 1623, False Statements Before)
The Court
)

INDICTMENT

COUNT 1 Conspiracy Title 18. United
States Code. Section 371

THE GRAND JURY CHARGES:

At all times material to this Indictment:

INTRODVCTION

1. The *United States Department of Health and Human Services* was a part of the federal government. From time to time it distributed funds to state agencies to help improve the health and welfare of citizens. These funds were to be used and administered by the state agencies in accordance with federal regulations and procedures.

2. One of those state agencies was the *Alabama Medicaid Agency*. The *Alabama Medicaid Agency* was an agency of the State of Alabama that received about 75 percent of its

funding from federal grants, contracts, subsidies, loans, guarantees, insurance, and other forms of federal assistance through the *United States Department of Health and Human Services*.

3. The *Alabama Medicaid Agency* was headed by the Medicaid Commissioner, who was appointed by, and served at the pleasure of, the Governor of the State of Alabama.

4. Alabama had a high infant mortality rate compared to other states. To address this problem, the *Alabama Medicaid Agency* created a program to provide medical services to poor, pregnant women. It was called the *Maternity Care Program*. The *Maternity Care Program* was a health care benefit program as defined in Title 18, United States Code, Section 24(b).

5. It was a part of the *Maternity Care Program* that the *Alabama Medicaid Agency* would contract with other medical organizations to provide these services. Alabama state law authorized the *Alabama Medicaid Agency* to award the contracts using a competitive-bid process, which the agency chose to do. Alabama law prohibited bidders and prospective bidders from making agreements that undermine competition in the bid process. *Ala. Code* § 41-16-55.

6. For purposes of the *Maternity Care Program*, the state was divided into thirteen districts. It was a part of the program that the *Alabama Medicaid Agency*, through the State of Alabama Department of Finance (*Finance Department*), would invite medical organizations to bid on contracts to provide the services in each of these districts. The total value of the *Maternity Care Program* contracts was estimated to be more than \$100 million per year. The *Invitation To Bid*, also known as the "ITB," was issued to entities that were interested in bidding on each district.

7. The *Invitation to Bid* contained requirements that each bidder had to meet in order to compete for the contracts. The *Invitation to Bid* required that each bidder demonstrate that it had in place a network of physicians and hospitals to deliver the services. The requirements in the *Invitation to Bid* ensured that organizations that were awarded contracts could, in fact, deliver the services sought by the *Alabama Medicaid Agency*.

8. In addition, the *Invitation to Bid* required each bidder to submit a letter as part of its bid that would state, among other things, "that the bidder has not and will not make any attempt to induce any other person or firm to withhold or submit a bid for the purposes of restricting competition."

9. The *Invitation to Bid* designated a specific employee of the *Alabama Medicaid Agency* to resolve questions, monitor performance, and ensure that all contract requirements were met.

10. It was a part of the *Maternity Care Program* bid process that the bids from organizations that did not meet the bid requirements would be discarded, and that the lowest remaining qualified bidder for each district would be awarded the contract for that district.

11. There were a number of medical organizations that were interested in bidding on one or more of these districts. They included the following:

- a. Neighborhood Health Services. This organization was owned by four people. The majority owner, with a 51 % interest, was defendant **PIDLLIP KELLEY BOBO**. He also owned a chain of walk-in medical clinics known as Emergi-care. He also held various positions in state government. He was the statewide Emergency Medical Director, a position with the Alabama Department of Public Health, and was the Medical Director of the Emergency Medical Services training program at the Alabama State Fire College in Tuscaloosa.
- b. Alabama Health Network. This was a group, or "consortium," of health care providers. It included:

(1) *Capstone Health Services Foundation, P.c.*,

(2) *DCH Healthcare Authority*,

(3) The Bibb County Health Care Authority,

(4) Pickens County Medical Center, Inc., and

(5) Family Healthcare of Alabama.

Capstone Health Services Foundation, P.c., was a non-profit foundation established to help the *Capstone Medical Center*, which was operated by the

University of Alabama for the purpose of training medical students and medical doctors. John Maxwell, an administrator at *Capstone Medical Center*, served as president of *Alabama Health Network*. Dr. Marc Armstrong was a medical doctor who practiced medicine and taught at *Capstone Medical Center*. Armstrong had been a friendly acquaintance of defendant BOBO for over 25 years.

12. The *Invitation To Bid* was issued on or about October 10, 1998. The bids originally were due in early December 1998.

13. During this period, defendant DON EUGENE SIEGELMAN was a candidate for Governor of the State of Alabama. Defendant BOBO was a financial backer of defendant SIEGELMAN and helped raise money for defendant SIEGELMAN'S campaign. The election was held in November 1998, and defendant SIEGELMAN won.

14. As Governor, defendant SIEGELMAN possessed all of the powers and duties of that elected office including the power to appoint the Commissioner of the *Alabama Medicaid Agency*.

15. Defendant BOBO served as a member of the Governor's transition team for defendant SIEGELMAN. Defendant BOBO'S duties included being one of the two individuals responsible for interviewing, and recommending to defendant SIEGELMAN, candidates for the position of Medicaid Commissioner.

16. Defendant SIEGELMAN'S representatives instructed the *Alabama Medicaid Agency* to halt the above-described bid process for the *Maternity Care Program* until defendant SIEGELMAN'S administration had time to review the matter. Eventually, February 22, 1999, was chosen as the new deadline for the submission of bids.

17. In January 1999, defendant SIEGELMAN took office as Governor. Thereafter, defendant SIEGELMAN campaigned to have the Alabama State Legislature and citizens of Alabama approve a lottery. Defendant BOBO helped raise money for this lottery campaign.

18. As Governor, defendant SIEGELMAN considered and acted on financial matters affecting the State of Alabama, such as budget appropriations and the awarding of contracts to vendors and entities doing business with the State of Alabama and its agencies.

19. While defendant SIEGELMAN was Governor, the State and citizens of Alabama had an intangible right to his honest services and to the honest services of all other state officials and employees.

20. Defendant PAUL MICHAEL HAMRICK was an aide to defendant SIEGELMAN during the election campaign. After defendant SIEGELMAN took office as Governor, defendant HAMRICK became defendant SIEGELMAN'S chief-of-staff and was a state official and employee. Defendant HAMRICK'S duties included, among others, acting as the Governor's representative to members of the Alabama State Legislature on legislative and budgetary matters.

21. In February 1999, *Neighborhood Health Services*, defendant BOBO'S organization, bid for a number of *Maternity Care Program* districts, including District 4, which contained Tuscaloosa County, and District 7, which included Greene and Hale Counties immediately south of Tuscaloosa County. As a mandatory part of its bids, *Neighborhood Health Services* provided a letter to the *Alabama Medicaid Agency*, stating that it had not and would not make any attempt to induce any other person or firm to withhold or submit a bid for the purpose of restricting competition.

22. *Alabama Health Network* also bid for Districts 4 and 7.

23. *Alabama Health Network* and *Neighborhood Health Services* were the only two bidders for District 4.

24. On March 19, 1999, the *Finance Department* notified each bidder whether it had won any district. *Alabama Health Network* won District 7, and *Neighborhood Health Services* was awarded Districts 1,4,8,9, and 11. *Neighborhood Health Services's* bid for District 4, however, was not the lowest qualified bid for District 4. Based on the projected number of births in District 4, *Neighborhood Health Services's* bid would have cost over \$1 million more than the bid of *Alabama Health Network*.

25. *Alabama Health Network* notified the *Alabama Medicaid Agency* that it planned to challenge the award of District 4 to *Neighborhood Health Services*.

26. Despite the March 19, 1999, award letters, the *Alabama Medicaid Agency* sent a notice to the bidders on March 23, 1999, referring to the awards as "preliminary."

27. On or before May 17, 1999, the *Alabama Medicaid Agency* and the *Finance Department* determined that District 4 should be re-bid. This decision was made public in a memo to prospective bidders faxed on May 17, 1999. The stated reason for the re-bid was "confusion in the awarding process."

28. The deadline for the re-bid in District 4 was set for June 21, 1999.

The Conspiracy

29. From in or about 1998, the exact date being unknown to the Grand Jury, to on or about June 10, 1999, within Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendants

**PHILLIP KELLEY BOBO DON
EUGENE SIEGELMAN and PAUL
MICHAEL HAMRICK**

did knowingly and willfully combine, conspire and agree with each other, and with other persons, known and unknown to the Grand Jury, to commit offenses against the United States, that is to:

a. Defraud the United States of

(1) money paid through the *Maternity Care Program*,

(2) contracts for the *Maternity Care Program*,

(3) the right to the benefits of a free and honest competitive-bid process in the *Maternity Care Program*, and

(4) the monetary differences between the higher bids submitted by *Neighborhood Health Services* and the lower bids submitted by other competitors in the *Maternity Care Program*,

in violation of Title 18, United States Code, Section 371; and

- b. Defraud the United States by interfering with, impairing, obstructing and defeating the lawful functions of the government of the United States, its departments and its agents, in the administration of programs designed to improve the health and welfare of its citizens, in violation of Title 18, United States Code, Section 371; and
- c. Commit offenses against the United States, that is: to knowingly and willfully execute and attempt to execute a scheme and artifice to defraud a health care benefit program, that is, the *Maternity Care Program* being administered by the *Alabama Medicaid Agency*, and financed by the *Health Care Financing Administration of the United States Department of Health and Human Services* and the State of Alabama, of

- (1) money paid through the *Maternity Care Program*,
- (2) contracts for the *Maternity Care Program*,
- (3) the right to the benefits of a free and honest competitive-bid process in the *Maternity Care Program*,
- (4) the monetary differences between the higher bids submitted by *Neighborhood Health Services* and the lower bids submitted by other competitors in the *Maternity Care Program*, and
- (5) the honest services of State officials and employees, including defendants **SIEGELMAN and HAMRICK**, who had influence over, and were charged with the administration of, the *Maternity Care Program*,

in connection with the delivery of and payment for health care benefits, items and services in violation of Title 18, United States Code, Section 1347 (1) and Section 2; and

- d. Commit offenses against the United States, that is: to knowingly and willfully cause agents of the State of Alabama and its agencies to intentionally misapply property valued at \$5,000 and more, that is
 - (1) \$550,000 in State funds,
 - (2) money paid through the *Maternity Care Program*,

(3) contracts for the *Maternity Care Program*,

(4) the monetary differences between the higher bids submitted by *Neighborhood Health Services* and the lower bids submitted by other competitors in the *Maternity Care Program*,

owned by and under the care, custody and control of the State and its agencies, which State and agencies received benefits under a federal program involving grants, contracts, subsidies, and other forms of federal assistance in excess of \$10,000 in anyone-year period encompassing said misapplications, in violation of Title 18 United States Code, Section 666(a)(I)(A) and Section 2; and

- e. Commit offenses against the United States, that is, to knowingly and willfully embezzle, steal, and intentionally misapply any of the moneys, funds, securities, premiums, credits, property, and other assets of a health care benefit program, that is, the *Maternity Care Program* being administered by the *Alabama Medicaid Agency*, and financed by the *Health Care Financing Administration of the United States Department of Health and Human Services* and the State of Alabama in violation of Title 18, United States Code, Section 669 and Section 2.

Purpose of the Conspiracy

30. It was the purpose of the conspiracy to use unlawful means to cause the *Alabama Medicaid Agency* and the *Finance Department* to award *Maternity Care Program* contracts to *Neighborhood Health Services*.

Manner and Means of the Conspiracy

31. It was part of the conspiracy that defendants DODO, SIEGELMAN, HAMRICK and other co-conspirators would and did corruptly and fraudulently and by deceit, craft and trickery interfere with, impair, obstruct and defeat the lawful function of the Government of the United States, its departments, and its agents in the administration of programs designed to improve the health and welfare of citizens of the United States.

32. It was further part of the conspiracy that defendants DODO, HAMRICK and other co-conspirators would and did corruptly attempt to persuade employees and officials of the State of Alabama to act contrary to Alabama's competitive-bid law, which required that contracts

issued in the *Maternity Care Program* be competitively bid, rather than simply being awarded to defendant **BOBO** as bid-exempt, professional-services contracts.

33. It was further part of the conspiracy that defendant **BOBO** and other co conspirators would and did corruptly offer inducements to State officials and employees to cause those officials and employees to corruptly change the requirements of the *Invitation To Bid* for the *Maternity Care Program* in order to benefit defendant **BOBO** and *Neighborhood Health Services*.

34. It was further part of the conspiracy that co-conspirators who held positions in state government would and did corruptly and fraudulently provide defendant **BOBO** with confidential bid information in order to give defendant **BOBO** and *Neighborhood Health Services* a competitive advantage over others bidding for *Maternity Care Program* contracts.

35. It was further part of the conspiracy that defendants **BOBO, HAMRICK** and other co-conspirators would and did contact employees of the *Alabama Medicaid Agency*, other than the agency employee designated by the *Invitation to Bid* as the contact person for the *Maternity Care Program*, for the purpose of undermining the competitive-bid process.

36. It was further part of the conspiracy that defendant **BOBO** and other co conspirators would and did corruptly and fraudulently offer inducements to a competitor of *Neighborhood Health Services* and to entities and individuals associated with that competitor in an attempt to cause that competitor to join with *Neighborhood Health Services* in designating districts in which the competitor and *Neighborhood Health Services* would not bid against one another.

37. It was further part of the conspiracy that defendants **BOBO, SIEGELMAN, HAMRICK** and other co-conspirators would and did represent to individuals and entities associated with, and with influence over, *Alabama Health Network* that one of those entities would receive inducements, including \$550,000 through fraudulent and inflated contracts with

the State Fire College, in exchange for *Alabama Health Network* agreeing not to re-bid in District 4 and to relinquish District 7, which *Alabama Health Network* had won.

38. It was further part of the conspiracy that defendants **SIEGELMAN, HAMRICK** and other co-conspirators would and did use their official positions to corruptly and fraudulently cause State money to be moved to the State Fire College in the Special Education Trust Fund budget. These funds were to be used by defendant **BOBO** to corruptly and fraudulently induce individuals and entities with influence over *Alabama Health Network* to persuade *Alabama Health Network* to not participate in the *Maternity Care Program* re-bid for District 4.

39. It was further part of the conspiracy that defendants **BOBO, SIEGELMAN, HAMRICK** and other co-conspirators would and did corruptly and fraudulently persuade and attempt to persuade employees of the University of Alabama to cause *Alabama Health Network* to withdraw from the *Maternity Care Program* re-bid process in District 4 and to relinquish *Maternity Care Program* District 7, which *Alabama Health Network* had won.

40. It was further part of the conspiracy that, in order to avoid detection and exposure, defendant **BOBO** and other co-conspirators would and did agree to keep secret the communications and conversations among co-conspirators, which were necessary to undermine the *Maternity Care Program* bid process and deprive the State and the citizens of Alabama of the honest services of State officials and employees who had influence over, and were charged with the administration of, the *Maternity Care Program*.

Overt Acts

41. In furtherance of the conspiracy and to achieve the objectives thereof, the conspirators committed and caused to be committed the following acts, among others, in the Northern District of Alabama, and elsewhere:

- a. In or about January 1999, defendant **HAMRICK** called staff attorneys of the *Finance Department* and of the *Alabama Medicaid Agency* and attempted to persuade them to eliminate the requirement that the *Maternity Care Program* contracts be competitively bid. Defendant **HAMRICK** made this telephone call after the *Invitation to Bid* had been sent to prospective bidders.

- b. In or about January 1999, defendant **BOBO**, requested that an unindicted co-conspirator, who was also on defendant **SIEGELMAN'S** transition team (Transition 1), support another unindicted co-conspirator, who was then a staff attorney for the *Alabama Medicaid Agency* (Medicaid Atty 1) assigned to work on the *Maternity Care Program*, for the position of Commissioner of the *Alabama Medicaid Agency*.
- c. In or about February 1999, after the *Invitation to Bid* had been issued, two unindicted co-conspirators who were working as lobbyists for defendant **BOBO** (Lobbyist 1 and Lobbyist 2) met with an individual associated with one of *Neighborhood Health Services's* competitors and, at defendant **BOBO'S** direction, made an offer to agree with the competitor on *Maternity Care Program* districts in which each entity would not bid in order to avoid competition with each other.
- d. In or about February 1999, unindicted co-conspirator Lobbyist 1 offered the position of Commissioner of the *Alabama Medicaid Agency* to unindicted co-conspirator Medicaid Atty 1. Lobbyist 1 made this offer at the direction of defendant **BOBO**, who had been designated by defendant **SIEGELMAN** to interview and recruit applicants for the Commissioner position.
- e. In or about February 1999, unindicted co-conspirator Transition 1 contacted another unindicted co-conspirator, who was the Acting Commissioner of the *Alabama Medicaid Agency* (Commissioner 1), and, on defendant **BOBO'S** behalf, attempted to persuade Commissioner 1 to change the bid-evaluation process to benefit defendant **BOBO** and *Neighborhood Health Services*.
- f. In or about February 1999, unindicted co-conspirator Transition 1 contacted unindicted co-conspirator Commissioner 1 and, on defendant **BOBO'S** behalf, attempted to persuade Commissioner 1 to alter a specific qualification in the *Maternity Care Program Invitation to Bid* to benefit defendant **BOBO** and *Neighborhood Health Services*. The specific qualification at issue was the requirement in the *Invitation to Bid* that each bidding vendor demonstrate that it had in place a provider network *at the time that the vendor submitted its bid in the Maternity Care Program (network requirement)*.
- g. In or about February 1999, defendant **BOBO** told unindicted co-conspirator Transition 1, in an attempt to avoid detection and exposure and to keep secret the fraud, not to disclose to anyone the contacts that Transition 1 had made with unindicted co-conspirator Commissioner 1 on defendant **BOBO'S** behalf.

- h. In or about February 1999, unindicted co-conspirator Lobbyist 2 contacted unindicted co-conspirators Commissioner 1, Medicaid Atty 1 , and Gov Asst 1, who was defendant **SIEGELMAN'S** executive assistant. Lobbyist 2, at defendant **BOBO'S** direction, attempted to persuade each of them to use his influence to alter the *network requirement* to benefit defendant **BOBO** and *Neighborhood Health Services*.
- 1. In or about February 1999, unindicted co-conspirator Lobbyist 1 also contacted unindicted co-conspirators Commissioner 1, Medicaid Atty 1 , and Gov Asst 1 and, at defendant **BOBO'S** direction, attempted to persuade each of them to use his influence to alter the *network requirement* to benefit defendant **BOBO** and *Neighborhood Health Services*.
- J. In or about February 1999, unindicted co-conspirator Lobbyist 2 contacted unindicted co-conspirators Commissioner 1, Medicaid Atty 1 , and Gov Asst 1 and, at defendant **BOBO'S** direction, attempted to persuade each of them to use his influence to have the *Maternity Care Program* bid-evaluation process altered to benefit defendant **BOBO** and *Neighborhood Health Services*.
- k. In or about February 1999, unindicted co-conspirator Lobbyist 1, acting at defendant **BOBO'S** direction, also contacted unindicted co-conspirators Commissioner 1, Medicaid Atty 1, and Gov Asst 1 and attempted to persuade each of them to use his influence to have the *Maternity Care Program* bid-evaluation process altered to benefit defendant **BOBO** and *Neighborhood Health Services*.
- 1. On or about March 23, 1999, unindicted co-conspirator Gov Asst 1, flew from Montgomery, Alabama, to Tuscaloosa, Alabama, and delivered confidential *Maternity Care Program-bid* information to defendant **BOBO** at **BOBO'S** home.
- m. In or about May 1999, defendant **BOBO**, who served as the Medical Director of the Emergency Medical Services training program at the State Fire College, asked the Fire College's Executive Director, Bill Langston, about the possibility of the Fire College contracting with "Capstone" for, variously, \$500,000 and \$800,000.
- n. In or about May 1999, defendant **BOBO** had discussions with unindicted co-conspirators Lobbyist 1 and Lobbyist 2 in which defendant **BOBO** discussed his plan to corruptly and fraudulently use funds from the State of Alabama to corruptly and fraudulently pay an organization with influence over *Alabama Health Network* in exchange for *Alabama Health Network's* agreement not to participate in the *Maternity Care Program* re-bid for District 4 (*District 4 bid-rigging scheme*).

- o. In or about May 1999, defendant **BOBO** and other co-conspirators, in an attempt to conceal the *District 4 bid-rigging scheme*, devised a cover story to explain the movement of \$550,000 to the State Fire College budget.
- p. In or about May 1999, defendant **BOBO** instructed unindicted co-conspirator Lobbyist 2, who had previously worked for defendant **SIEGELMAN**, to contact defendant **SIEGELMAN** and request that he do two things. Specifically, defendant **BOBO** instructed unindicted co-conspirator Lobbyist 2 to request that defendant **SIEGELMAN** move \$550,000 to the State Fire College in the Special Education Trust Fund budget in order to supply defendant **BOBO** with the funds necessary to corruptly and fraudulently pay an organization with influence over *Alabama Health Network* in exchange for *Alabama Health Network's* agreement not to participate in the *Maternity Care Program* re-bid for District 4. Defendant **BOBO** also instructed unindicted co-conspirator Lobbyist 2 to request that defendant **SIEGELMAN** contact Dr. Andrew Sorenson, President of the University of Alabama, and persuade President Sorenson to assist in undermining the competitive-bid process by influencing *Alabama Health Network* to withdraw from the *Maternity Care Program* competition.
- q. In or about May 1999, unindicted co-conspirator Lobbyist 2 contacted defendant **SIEGELMAN**, at defendant **BOBO'S** direction, and requested that defendant **SIEGELMAN** have \$550,000 moved to the budget of the State Fire College in order to supply defendant **BOBO** with the funds necessary to corruptly and fraudulently pay an organization with influence over *Alabama Health Network* in exchange for *Alabama Health Network's* agreement not to participate in the *Maternity Care Program* re-bid for District 4.
- r. In or about May 1999, unindicted co-conspirator Lobbyist 2, at defendant **BOBO'S** direction, contacted unindicted co-conspirator Gov Asst 1 and attempted to enlist the assistance of Gov Asst 1 in moving \$550,000 to the budget of the State Fire College and in having defendant **SIEGELMAN** call President Sorenson.
- s. In or about May 1999, unindicted co-conspirator Gov Asst 1, at defendant **BOBO'S** request, contacted President Sorenson in an attempt to enlist his aid in defendant **BOBO'S** *District 4 bid-rigging scheme*.
- t. In or about May 1999, unindicted co-conspirator Lobbyist 2 contacted defendant **HAMRICK**, at defendant **BOBO'S** direction, to enlist defendant **HAMRICK'S** aid in having \$550,000 moved to the budget of the State Fire College.
- u. In or about May 1999, defendant **HAMRICK**, on behalf of defendant **BOBO**, contacted an Alabama state senator with responsibilities regarding the budget of

the Special Education Trust Fund and informed the senator that defendant **SIEGELMAN** wanted to move \$550,000 to the budget of the State Fire College.

- v. In or about May 1999, unindicted co-conspirator Lobbyist 2, at defendant **BOBO'S** direction, contacted an Alabama state senator with responsibilities regarding the budget of the Special Education Trust Fund in order to facilitate the movement of \$550,000 to the State Fire College budget.
- w. In or about May 1999, unindicted co-conspirator Lobbyist 2, at defendant **BOBO'S** direction, contacted defendant **SIEGELMAN** and requested that defendant **SIEGELMAN** call President Sorenson and persuade him to assist in undermining the competitive-bid process by influencing *Alabama Health Network* to withdraw from the *Maternity Care Program* competition.
- x. In or about May 1999, unindicted co-conspirator Gov Asst 1 had a conversation with defendants **HAMRICK and SIEGELMAN** in which the three discussed defendant **BOBO'S** request that defendant **SIEGELMAN** call President Sorenson to seek his assistance with defendant **BOBO'S District 4 bid-rigging scheme**.
- y. In or about May 1999, defendants **SIEGELMAN and HAMRICK**, at defendant **BOBO'S** request, spoke by telephone with President Sorenson in an attempt to enlist his aid for defendant **BOBO'S District 4 bid-rigging scheme**.
- z. In or about May 1999, unindicted co-conspirator Lobbyist 2 had a conversation with defendant **SIEGELMAN** wherein defendant **SIEGELMAN** stated that he had done as requested regarding the movement of \$550,000 to State Fire College in the Special Education Trust Fund budget and regarding calling President Sorenson to persuade him to assist in defendant **BOBO'S District 4 bid-rigging scheme**.
- aa. On or about May 18, 1999, defendant **BOBO** called Dr. Marc Annstrong in an attempt to get Annstrong to persuade organizations and individuals with influence over *Alabama Health Network* to accept \$550,000 from the State Fire College by way of fraudulent and inflated contracts and to accept other inducements offered by defendant **BOBO** in exchange for *Alabama Health Network* not competing in the *Maternity Care Program* re-bid in District 4 and relinquishing District 7, which *Alabama Health Network* had won.
- bb. In or about May 1999, defendant **BOBO** contacted an unindicted co-conspirator who was an Assistant Vice-president of the University of Alabama with responsibility for fund raising (UA VP 1), and asked UA VP 1 to influence employees of the University of Alabama, who were associated with *Alabama*

Health Network, to agree to participate in defendant **BOBO'S District 4 bid-rigging scheme.**

- cc. In or about May 1999, unindicted co-conspirator VA VP 1 attempted to persuade Dr. Marc Armstrong to influence individuals and entities associated with *Alabama Health Network* to participate in defendant **BOBO'S District 4 bid-rigging scheme**.
- dd. In or about May 1999, defendant **BOBO** requested that an unindicted co-conspirator, who was one of defendant **BOBO'S** partners in *Neighborhood Health Services* (Partner 1), contact the CEO of *DCH Healthcare Authority*, a member of the *Alabama Health Network* consortium, and attempt to enlist the CEO's support for defendant **BOBO'S District 4 bid-rigging scheme**.
- ee. In or about May 1999, unindicted co-conspirator Partner 1, acting on defendant **BOBO'S** behalf, contacted the CEO of *DCH Healthcare Authority* in an attempt to enlist the CEO's support for defendant **BOBO'S District 4 bid-rigging scheme**.
- ff. In or about May 1999, defendant **BOBO** requested that unindicted co-conspirator Transition 1 contact the CEO of *DCH Healthcare Authority* to persuade *DCH Healthcare Authority*, a member of the *Alabama Health Network* consortium, to withdraw from the consortium.
- gg. In or about May 1999, unindicted co-conspirator Transition 1, acting on defendant **BOBO'S** behalf, contacted the CEO of *DCH Healthcare Authority* to persuade *DCH Healthcare Authority*, a member of the *Alabama Health Network* consortium, to withdraw from the consortium.
- hh. On or about May 27, 1999, defendant **BOBO** had a telephone conversation with John Maxwell, president of *Alabama Health Network*, in which defendant **BOBO** repeated his offer to cause an organization with influence over *Alabama Health Network* to receive inducements, including \$550,000 from the State Fire College by means of fraudulent and inflated contracts, in exchange for *Alabama Health Network* not competing in the *Maternity Care Program* re-bid in District 4 and relinquishing District 7, which *Alabama Health Network* had won;
- 11. On or about June 1, 1999, defendant **BOBO** had a telephone conversation with John Maxwell, president of *Alabama Health Network*, in which defendant **BOBO** repeated his offer to cause an organization with influence over *Alabama Health Network* to receive inducements, including \$550,000 from the State Fire College by means of fraudulent and inflated contracts, in exchange for *Alabama Health Network* not competing in the *Maternity Care Program* re-bid in District 4 and relinquishing District 7, which *Alabama Health Network* had won.

All in violation of Title 18, United States Code, Section 371.

COUNT 2 Health Care Fraud Title 18. United States
Code. Sections 1347 and 2

1. The Grand Jury repeats and re-alleges the allegations contained in the Introduction (numbered paragraphs 1 through 28 of Count 1) of this Indictment as though fully set out herein and further charges:

2. From in or about 1998, the exact date being unknown to the Grand Jury, and continuing until on or about June 10, 1999, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendants

PHILLIP KELLEY BOBO DON
EUGENE SIEGELMAN and
PAUL MICHAEL HAMRICK

aided and abetted by each other, and by others known and unknown to the Grand Jury, did knowingly and willfully execute and attempt to execute, a scheme and artifice to defraud a health care benefit program, that is, the *Maternity Care Program* being administered by the *Alabama Medicaid Agency* and financed by the *United States Department of Health and Human Services* and by the State of Alabama, of

- a. money through the *Maternity Care Program*,
- b. contracts for the *Maternity Care Program*,
- c. the right to the benefits of a free and honest competitive-bid process in the *Maternity Care Program*,
- d. the monetary differences between the higher bids submitted by *Neighborhood Health Services* and the lower bids submitted by other competitors in the *Maternity Care Program*, and
- e. the honest services of State officials and employees, including defendants SIEGELMAN and HAMRICK, who had influence over, and were charged with the administration of, the *Maternity Care Program*,

all in connection with the delivery of and payment for health care benefits, items and services.

3. It was part of the scheme and artifice to defraud that:

- a. Defendants **BOBO, HAMRICK** and others would and did corruptly attempt to persuade employees and officials of the State of Alabama to act contrary to Alabama's competitive-bid law, which required that contracts issued in the *Maternity Care Program* be competitively bid, rather than simply being awarded to defendant **BOBO** as bid-exempt, professional-services contracts;
- b. Defendant **BOBO** and others would and did corruptly offer inducements to State officials and employees to cause those officials and employees to corruptly change the requirements of the *Invitation To Bid* for the *Maternity Care Program* in order to benefit defendant **BOBO** and *Neighborhood Health Services*;
- c. Individuals who held positions in state government would and did corruptly and fraudulently provide defendant **BOBO** with confidential bid information in order to give defendant **BOBO** and *Neighborhood Health Services* a competitive advantage over others bidding for *Maternity Care Program* contracts;
- d. Defendants **BOBO, HAMRICK** and others would and did contact employees of the *Alabama Medicaid Agency* about the *Maternity Care Program* other than the agency employee designated by the *Invitation to Bid* as the contact person for the *Maternity Care Program*, for the purpose of undermining the competitive-bid process;
- e. Defendant **BOBO** and others would and did corruptly and fraudulently attempt to induce other bidders and prospective bidders to withhold and withdraw bids for the purpose of restricting competition for the contracts for the *Maternity Care Program*. Said attempts would and did include:
 - (1) Defendant **BOBO** and others would and did corruptly and fraudulently offer inducements to a competitor of *Neighborhood Health Services* and to entities and individuals associated with that competitor in an attempt to cause that competitor to join with *Neighborhood Health Services* in designating districts in which the competitor and *Neighborhood Health Services* would not bid against one another;

- (2) Defendants BOBO, SIEGELMAN, HAMRICK and others would and did represent to individuals and entities associated with, and with influence over, *Alabama Health Network* that one of those entities would receive inducements, including \$550,000 through fraudulent and inflated contracts with the State Fire College, in exchange for *Alabama Health Network* agreeing not to re-bid in District 4 and to relinquish District 7, which *Alabama Health Network* had won;
- (3) Defendants SIEGELMAN, HAMRICK and others would and did use their official positions to corruptly and fraudulently cause State money to be moved to the State Fire College in the Special Education Trust Fund budget. These funds were to be used by defendant BOBO to corruptly and fraudulently induce individuals and entities with influence over *Alabama Health Network* to persuade *Alabama Health Network* to not participate in the *Maternity Care Program* re-bid for District 4; and
- (4) Defendants BOBO, SIEGELMAN, HAMRICK and others would and did corruptly and fraudulently persuade and attempt to persuade employees of the University of Alabama to cause *Alabama Health Network* to withdraw from the *Maternity Care Program* re-bid process in District 4 and to relinquish *Maternity Care Program* District 7, which *Alabama Health Network* had won; and

- f. In order to avoid detection and exposure, defendants BOBO, and others would and did agree to keep secret the communications and conversations, which were necessary to undermine the *Maternity Care Program* bid process and deprive the State and the citizens of Alabama of the honest services of State officials and employees who had influence over, and were charged with the administration of, the *Maternity Care Program*,

all in connection with the delivery of and payment for health care benefits, items and services.

All in violation of Title 18, United States Code, Section 1347 and Section 2.

COUNT 3 Theft From Federally Funded Prowams
Title 18. United States Code. Sections 666 and 2

The Grand Jury further charges that, from in or about April 1999, the exact date being
unknown to the Grand Jury, and continuing until on or about June 9, 1999, in Tuscaloosa County
in the Northern District of Alabama, and elsewhere, the defendants

PHILLIP KELLEY BOBO DON
EUGENE SIEGELMAN and
PAUL MICHAEL HAMRICK

aided and abetted by each other, and by others known and unknown to the Grand Jury, did
knowingly and willfully cause agents of the State of Alabama and its agencies to intentionally
misapply property valued at \$5,000 and more, that is \$550,000 in State funds, owned by and
under the care, custody and control of the State and its agencies, which State and agencies
received benefits under a federal program involving grants, contracts, subsidies, and other forms
of federal assistance in excess of \$10,000 in anyone-year period encompassing said
misapplications.

All in violation of Title 18 United States Code, Section 666(a)(1)(A) and Section 2.

COUNT 4 Wire Fraud Title 18. United
States Code. Section 1343

The Scheme and Artifice to Defraud

1. The Grand Jury repeats and re-alleges the allegations contained in the Introduction
(numbered paragraphs 1 through 28 of Count 1) of this Indictment as though fully set out herein
and further charges:

2. From in or about March 1999, the exact date being unknown to the Grand Jury, to on or about June 10, 1999, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendant

PHILLIP KELLEY BOBO

and others known and unknown to the Grand Jury, devised and intended to devise a scheme and artifice to defraud, that is, defendant **BOBO** and others would and did corruptly and fraudulently attempt to induce other bidders and prospective bidders to withhold and withdraw bids for the purpose of undermining the bid process for the *Maternity Care Program*. Said attempts would and did include:

- a. Defendants **BOBO, SIEGELMAN, HAMRICK** and others would and did represent to individuals and entities associated with, and with influence over, *Alabama Health Network* that one of those entities would receive inducements, including \$550,000 through fraudulent and inflated contracts with the State Fire College, in exchange for *Alabama Health Network* agreeing not to re-bid in District 4 and to relinquish District 7, which *Alabama Health Network* had won;
- b. Defendants **SIEGELMAN, HAMRICK** and others would and did use their official positions to corruptly and fraudulently cause State money to be moved to the State Fire College in the Special Education Trust Fund budget. These funds were to be used by defendant **BOBO** to corruptly and fraudulently induce individuals and entities with influence over *Alabama Health Network* to persuade *Alabama Health Network* to not participate in the *Maternity Care Program* re-bid for District 4; and
- c. Defendants **BOBO, SIEGELMAN, HAMRICK** and others would and did corruptly and fraudulently persuade and attempt to persuade employees of the University of Alabama to cause *Alabama Health Network* to withdraw from the *Maternity Care Program* re-bid process in District 4 and to relinquish *Maternity Care Program* District 7, which *Alabama Health Network* had won.

The Wire

3. On or about May 27, 1999, within Tuscaloosa County in the Northern District of Alabama, and elsewhere, defendant **BOBO**, knowingly and willfully and for the purpose of executing the above-described scheme and artifice, transmitted and caused to be transmitted by

means of wire communications in interstate commerce, certain signals and sounds, that is a telephone call from defendant **BOBO** in Denver, Colorado, to John Maxwell, president of *Alabama Health Network*, in Tuscaloosa, Alabama.

All in violation of Title 18, United States Code, Section 1343.

COUNT 5 Witness Tamperine Title 18.
United States Code. Section 1512

The Grand Jury further charges that, in or about June 1999, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendant

PIDLLIP KELLEY BOBO

did knowingly and corruptly persuade and attempt to persuade another, that is, Amy Herring, with intent to hinder, delay, and prevent the communication of information to a law enforcement officer of the United States relating to the commission or possible commission of a federal offense.

All in violation of Title 18, United States Code, Section 1512.

COUNT 6 Witness Tamperine Title 18.
United States Code. Section 1512

The Grand Jury further charges that, in or about September 2001, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendant

PIDLLIP KELLEY BOBO

did knowingly and corruptly persuade and attempt to persuade another with intent to influence and prevent the testimony of any person, that is, Boolus Boohaker, in an official proceeding before the United States District Court for the Northern District of Alabama.

All in violation of Title 18, United States Code, Section 1512.

COUNT 7 False Statements to the Federal Bureau of
Investigation Title 18, United States Code, Section 1001

The Grand Jury further charges that, on or about June 10, 1999, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendant

PIDLLIP KELLEY BOBO

in a matter within the jurisdiction of the Federal Bureau of Investigation, an executive agency of the Government of the United States, did knowingly and willfully make materially false, fictitious and fraudulent statements and representations in that defendant BOBO, during the course of an interview by an agent of the Federal Bureau of Investigation, stated that he had not offered Dr. Marc Armstrong, John Maxwell, and/or representatives of *Alabama Health Network* any type of incentive whatsoever to cause and induce *Alabama Health Network* not to participate in the re-bid for the *Maternity Care Program* contract in District 4, and specifically, that defendant BOBO had not offered \$800,000 as a part of any such incentive, when in truth and in fact, defendant BOBO there and then well knew such statements were materially false, fictitious and fraudulent in that, as defendant BOBO knew, he had made an offer to Armstrong and Maxwell to pay \$800,000, among other things, to an entity with which Armstrong and Maxwell were associated, and which had influence over the *Alabama Health Network* consortium, in exchange for *Alabama Health Network* not participating in the re-bid for the *Maternity Care Program* contract in District 4 and relinquishing District 7, which *Alabama Health Network* had won.

All in violation of Title 18, United States Code, Section 1001.

COUNT 8 False Statements Before the Court
Title 18. United States Code. Section 1623

1. The Grand Jury further charges that, on or about October 9, 2001, in Tuscaloosa County in the Northern District of Alabama, and elsewhere, the defendant
PIDLLIP KELLEY BOBO

while under oath as a witness in a case then being tried before the United States District Court for the said District, entitled United States v. Phillip K. Bobo, No. 01-00171-CR-N-W, knowingly did make a false, material declaration, that is to say:

2. At the time and place aforesaid, the Court and Jury were engaged in the trial of the aforementioned case in which Phillip K. Bobo, the defendant therein, was charged with conspiracy to commit health care fraud and with health care fraud. It was a matter material to said trial to determine whether anyone working for the State of Alabama had provided to BOBO confidential bid information relating to *Maternity Care Program* contracts, specifically the bid costs above which the State of Alabama would not award *Maternity Care Program* contracts.

3. At the time and place alleged, defendant BOBO, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:

Q [By the prosecutor]: Sir, do you recall Dr. Karl Harbin when he testified in here, do you remember him coming here to testify?

A [By defendant BOBO]: Yes, I do.

Q: Do you remember him telling this jury that you called him late at night one night?

A: Yes, I do.

Q: Do you remember him telling this jury in response to a question offered by the Government that during that phone call, you had told him that someone named Nick had been flown up here to Tuscaloosa by you?

A: I recall he said that, yes.

Q: Do you recall him saying that you told him you had the numbers you needed to get below?

A: No. sir. I heard him say that. but that's not true.

Q: So then your partner, Karl Harbin, is also a

A: I am not saying he is a liar. I am not sure that's what his testimony reflected.

Q: Well

A: As I recall, his testimony reflected that he never mentioned any numbers. It was just that all the bidders had overbid some certain point that *Alabama Medicaid Agency* had in mind. There was no specific numbers ever mentioned.

Q: So your testimony today is you deny having the numbers that you needed to get below?

A: Yes, sir.

4. The aforesaid underscored testimony of defendant **BOBO**, as he then and there well knew and believed, was false in that, on or about March 23, 1999, defendant **BOBO** was provided *Maternity Care Program* confidential bid information by Nick Bailey, executive assistant to the Governor of Alabama. Specifically, Bailey gave defendant **BOBO** the bid costs above which the State of Alabama would not award *Maternity Care Program* contracts.

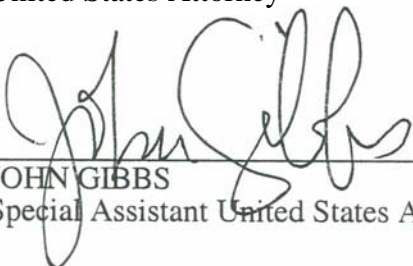
All in violation of Title 18, United States Code, Section 1623.

A TRUE BILL.


FOREMAN OF THE GRAND JURY


ALICE H. MARTIN
United States Attorney


MILES M. HART
Assistant United States Attorney


JOHN GIBBS
Special Assistant United States Attorney